

REGULAR MEETING OF THE CITY COUNCIL
CITY OF COSTA MESA

SEPTEMBER 20, 2005

The City Council of the City of Costa Mesa, California, met in regular session Tuesday, September 20, 2005, at 6:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa. The meeting was called to order by the Mayor, followed by the Pledge of Allegiance to the Flag led by Council Member Foley, and a moment of solemn expression led by Pastor Limbert Vasquez, The Crossings Church.

ROLL CALL	<div>Council Members Present:</div> <div>Mayor Allan Mansoor Mayor Pro Tem Gary Monahan Council Member Eric Bever Council Member Linda Dixon Council Member Katrina Foley</div> <div>Council Members Absent:</div> <div>None</div> <div>Officials Present:</div> <div>City Manager Allan Roeder City Attorney Kimberly Hall Barlow Development Services Director Donald Lamm Public Services Director William Morris Associate Engineer Raja Sethuraman Senior Planner Mel Lee Principal Planner Kim Brandt Recreation Manager Jana Ransom Deputy City Clerk Julie Folcik</div>
PRESENTATION 2005 Mayor's Cup Award	Mayor Mansoor recognized the Costa Mesa National Little League All Star players and the American Little League All Star Players for their participation in the 2005 Mayor's Cup tournament. He presented certificates of appreciation to National League Manager Kirk Stone, Coach Mike Moline, Coach Mike Markovsky, and players Andrew Roth, Matt Carlyle, Kannon Stone, Alexandra Krohnfeldt, Kevin Carvajal, Victor Trujillo, Danial DeGree, Chris Molina, Stephen Hildebrand, Michael Markovsky, Joshua Meislahn, Isaiah Watanabe, Nathan Alvis, and Marcus Hayes. Mayor Mansoor commended the champion American League team who were presented with the Mayor's Cup, and certificates were given to Manager Jeff Hirsch, Coach John McLuckey, Coach Rob Sutika, and players Garrett Hirsch, Brian Waldron, Brendon Bonghanoy, Brian Williams, Tyler Sheffner, J. T. McLuckey, Derek Amendola, P. J. Maloney, Logan Bentor, and Brandon Lewis.
PRESENTATION Employee of the Month	Mayor Mansoor congratulated Ben Ellingson, Combination Inspector, Development Services Department, for being named Employee of the Month for September, 2005. He recognized Ben for his willingness to assist Costa Mesa residents and business owners, as well as their contractors, and acknowledged his expertise regarding building matters. He commended Ben for his commitment and dedication to his work.
PUBLIC COMMENT Quality of Life Issues	Martin Millard, Costa Mesa, asked the City Council to direct the Police Department to enforce "quality of life" related laws. He

	<p>observed that there were 16 soccer players in Paularino Park the other evening playing after dark and without lighting, which is illegal. He added that vending trucks are not cited for illegally blowing their horns in residential neighborhoods because Police officers do not want to check the driver's licenses of illegal aliens.</p>
Child Care Committee Presentation	<p>Mike Berry, Costa Mesa, objected to a comment made during the Child Care and Youth Services Committee presentation at the Study Session of September 13, 2005, wherein it was stated that, "if we increase our available child care, people who cannot afford child care will move to this city". He questioned the advisability of expending funds to assist non-residents who need financial aid.</p>
Day Workers	<p>Hildegard Gonzales, Costa Mesa, reported that day workers loiter in her neighborhood, and believed that the majority are from Santa Ana and are attracted by the Costa Mesa Job Center. She indicated that the last City Council discussion of the Job Center lasted until 2:00 a.m., which she believed is inconsiderate to residents who attended the meeting to address that item. Mayor Mansoor replied that the Costa Mesa Job Center is set to close at the end of 2005, and assured Mrs. Gonzales that the City is addressing West Side issues and moving forward with the overlay zones.</p>
Propositions B, C, D, and E	<p>Judi Berry, Costa Mesa, opposed Propositions B, C, D, and E, slated for the November 8, 2005, election. She stated that they relate to the Orange County Fire Authority diverting Proposition 172 monies, now directed to the Costa Mesa Police Department, for the Fire Authority's use. Mayor Mansoor asked the City Manager to determine how much the City receives from Proposition 172.</p>
Shereshevsky Comments	<p>Ann Hogan Shereshevsky, Costa Mesa, reiterated her requests for the following services which would benefit senior citizens: the City locate a Costa Mesa business willing to become a payment center for utility bills; and reinstate the bus route on Wilson Street from Fairview Road to Harbor Boulevard. She again suggested that the high schools determine a method other than selling fireworks to raise funds, and thanked her sponsors for her ability to attend the White House Conference on Aging in Washington, D.C. Council Member Dixon suggested that Ms. Shereshevsky contact the Costa Mesa Chamber of Commerce regarding the collection of utility bills. Council Member Bever indicated that the County has prepared a report on fireworks.</p>
19 th Street Transients	<p>Mirna Burciaga, Costa Mesa, commented on the increase of transients on West 19th Street, and asked Council to address this issue. She indicated that the physical aspects of the street, such as the conditions of the businesses, attracts transients.</p>
COUNCIL COMMENTS Bill Pay; 19 th Street	<p>Regarding the request from Ann Hogan Shereshevsky to institute a one-stop bill pay center, Council Member Foley asked that staff determine if City Hall or the Senior Center could be considered as such a location. In connection with Mrs. Burciaga's comments, Council Member Foley reiterated her request at the meeting of September 6, 2005, for increased Police patrol of 19th Street, including foot patrol if necessary. The City Manager responded that the 19th Street information will be included in the report which addresses Mrs. Burciaga's questions.</p>
Order of Council Comments	<p>Council Member Dixon asked that the order of names for Council Member Comments be rotated for each meeting. Mayor Mansoor concurred, and suggested limiting Council Member Comments to</p>

three minutes.

Assistant City Manager	Council Member Bever recognized Assistant City Manager Steve Hayman who will be leaving and will assume the position of City Manager for City of Rancho San Marguerita. In light of the recent disaster involving Hurricane Katrina, he reported that the Community Emergency Response Team has created a Citizen Corps group who have taken the responsibility of organizing neighborhoods and teaching residents to take care of themselves during a major disaster. He encouraged those who would be interested in joining the Corps to contact Diane Hill at www.cmprepared@comcast.net .
Citizen Corps	
Citizens Police and Fire Academy	Mayor Mansoor invited members of the public to attend the Citizen Police and Fire Academy. He indicated that residents should be prepared in case of an earthquake or major event, and stressed the importance of individual preparedness. Mayor Mansoor reported that graffiti had been removed in the flood control channel at Fairview Park, and thanked Supervisor Jim Silva for his assistance.
Graffiti	
CONSENT CALENDAR	The following items were removed from the Consent Calendar: Item No. 5, Cooperative Agreement No. C-5-2592 between the Orange County Transportation authority (OCTA), and the cities of Costa Mesa and Santa Ana for landscape improvements; Item No. 6, Sole source purchase of 80 Mobile Data Computers and Peripherals for Police and Fire Departments from Motorola Inc., and End User License Agreement for Mobility with NetMotion Wireless; Item No. 9, Salary adjustments for classifications represented by the Costa Mesa Police Management Association, Costa Mesa Police Association, and Costa Mesa City Employees Association, and unrepresented part-time classifications; and Item No. 10, Request from Paul Miller, Housing Rehabilitation Coordinator, for a 22-week leave of absence extension.
MOTION/Approved Except Item Nos. 5, 6, 9, and 10	On motion by Mayor Mansoor, seconded by Council Member Bever, and carried 5-0, the remaining Consent Calendar items were approved as recommended.
READING FOLDER	The following Reading Folder items were received and processed:
Claims	Claims received by the Deputy City Clerk: Cindy Joy Graves; and Eugenio J. Ponce.
ABC Licenses	Request for Alcoholic Beverage Control Licenses were received from: The Wrapper, 3333 Bristol Street, Suite 1212, for a premise-to-premise transfer of an existing Type 20 ABC License (off-sale beer and wine). Memphis Café, 2920 Bristol Street, for a person-to-person transfer of an existing Type 47 ABC License (on-sale general for a bona fide eating place), and Type 58 ABC License (caterer's permit).
Public Utilities Commission	Southern California Edison Company filed application A.05-08-002 with the California Public Utilities Commission requesting an increase in electric rates.

Staff responded to an inquiry from Donald Nicholson at the Council

Follow-Up Report	Meeting of September 6, 2005, regarding street sweeping effectiveness on the days following a holiday.
WARRANTS	The following warrants were approved:
Warrant 2074	Warrant Resolution 2074, funding City operating expenses for \$1,289,555.73.
Warrant 2075	Warrant Resolution 2075 funding Payroll No. 518 for \$2,143,691.04, and Payroll No. 517A for negative \$1,491.22, and City operating expenses for \$483,295.07, including payroll deductions.
Accepted Work for Roof Replacement, Project No. 05-10, by Best Roofing and Waterproofing	Roof Replacement at the Neighborhood Community Center (1845 Park Avenue); Police Substation (567 West 18 th Street); Lions Park Restroom (570 West 18 th Street); and Heller Park Restroom (257 East 16 th Street), Project No. 05-10, was completed to the satisfaction of the Public Services Director on August 18, 2005, by Best Roofing & Waterproofing, Inc., doing business as Best Contracting Services, Inc., 19027 South Hamilton Avenue, Gardena. The work was accepted; the Deputy City Clerk was authorized to file a Notice of Completion; authorization was given to release retention monies 35 days thereafter; the Labor and Material bond was ordered exonerated 7 months thereafter; and the Performance Bond was ordered exonerated 12 months thereafter.
Approved Budget Adjustment No. 06-014	Budget Adjustment No. 06-014 was approved for \$30,886.00, for the California Beverage Container Recycling and Litter Reduction Grant for Fiscal Year 2005-2006.
Agreement with OCTA and City of Santa Ana for Landscape Improvements	Item No. 5 on the Consent Calendar was presented: Cooperative Agreement No. C-5-2592 between the Orange County Transportation Authority (OCTA) and the cities of Costa Mesa and Santa Ana, for landscape improvements at Bristol Street/I-405, Avenue of the Arts offramp and MacArthur Boulevard/SR-55 interchanges. Council Member Dixon indicated that the project included landscape improvements at the various offramps which she had supported and encouraged for many years.
MOTION/Approved Agreement	On motion by Council Member Dixon, seconded by Mayor Pro Tem Monahan, and carried 5-0, the agreement was approved, and the Mayor and Deputy City Clerk were authorized to sign on behalf of the City.
Sole Source Purchase of Computers from Motorola	Item No. 6 on the Consent Calendar was presented: Sole source purchase of 80 Mobile Data Computers and Peripherals for Police and Fire Departments from Motorola Inc., and End User License Agreement for Mobility with NetMotion Wireless. Martin Millard, Costa Mesa, asked why the City should allocate monies for computers if, in his opinion, the Police are not doing their job. Mayor Mansoor supported the purchase of the new computers, noting that the Police address other law enforcement issues in addition to the examples provided by Mr. Millard.
MOTION/Approved Purchase; Approved Agreement with NetMotion Wireless	On motion by Mayor Mansoor, seconded by Council Member Dixon, and carried 5-0, the sole source purchase was approved of 80 Mobile Data Computers and Peripherals for Police and Fire Departments from Motorola Inc., 6450 Sequence Drive, San Diego, for \$761,299.00, and the City Manager was authorized to sign on behalf of the City; and End User License Agreement was approved for Mobility with NetMotion Wireless, 701 North 34 th Street, Suite

250, Seattle, Washington, for \$26,875.00, and the City Manager was authorized to sign on behalf of the City.

Salary Adjustments
For CMPMA, CMPA,
CMCEA, and Part
Time Employees

Item No 9 on the Consent Calendar was presented: Salary adjustments for classifications represented by the Costa Mesa Police Management Association, Costa Mesa Police Association, and Costa Mesa City Employees Association, and unrepresented part-time classifications.

Judi Berry, Costa Mesa, commented on the public employees retirement system which she referred to as “out of whack” when compared to the rest of the country.

Martin Millard, Costa Mesa, addressed the proposed increase of Police salaries.

Mike Berry, Costa Mesa, opined that this item “is not a simple pay raise but an alteration of pay schedule.”

Beth Refakes, Costa Mesa, expressed concern about the escalated salaries, and encouraged caution during future negotiations with the employee associations.

MOTION

On motion by Mayor Pro Tem Monahan, seconded by Council Member Foley, and carried 5-0, the following action was taken:

Adopted Resolution
05-65

Resolution 05-65 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ESTABLISHING THE SALARY RANGE FOR THE JOB CLASSIFICATIONS REPRESENTED BY THE COSTA MESA POLICE MANAGEMENT ASSOCIATION (CMPMA) PURSUANT TO THE 2004-2007 MOU.

Adopted Resolution
05-66

Resolution 05-66 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE PAY RANGES FOR JOB CLASSIFICATIONS REPRESENTED BY THE COSTA MESA POLICE ASSOCIATION (CMPA) PURSUANT TO THE 2004-2007 MOU

Adopted Resolution
05-67

Resolution 05-67 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, REVISING THE PAY RANGES FOR JOB CLASSIFICATIONS REPRESENTED BY THE COSTA MESA CITY EMPLOYEES ASSOCIATION (CMCEA) PURSUANT TO THE 2004-2007 MOU, and includes the new classification of Video Production Specialist as approved in the fiscal year 2005-2006 City budget.

Adopted Resolution
05-68

Resolution 05-68 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ADJUSTING THE RATES OF PAY FOR PART-TIME CLASSIFICATIONS AND EMPLOYEES TO REFLECT THE ESTABLISHED MARKETPLACE.

Approved Budget
Adjustment 06-015

Budget Adjustment No. 06-015 for \$3.1 million to appropriate funds to the various City departments for the above-listed salary adjustments was approved.

The City Manager clarified that the above actions implement the second year of a three-year agreement with the associations and is based on figures obtained from the marketplace.

Item No. 10 on the Consent Calendar was presented: Request

Request for Leave
Extension

from Paul Miller, Housing Rehabilitation Coordinator, for a 22-week leave of absence extension. Council Member Foley asked that this item be continued to a closed session. Paul Miller agreed that this was not forum in which to discuss this matter, and stated that he had been employed by the City for 10 years.

MOTION/Continued
To October 4, 2005

On motion by Council Member Foley, seconded by Mayor Mansoor, and carried 5-0, the request was continued to a closed session at the meeting of October 4, 2005.

The City Manager asked that Mr. Miller provide Council with any pertinent information and documentation prior to the closed session.

Mayor Mansoor announced that New Business No. 1 would be considered prior to the first public hearing, as it was not yet 7:00 p.m.

NEW BUSINESS
Agreement with Costa
Mesa Sanitary District
for Field Crew Services

The Deputy City Clerk presented consideration of Proposed Agreement with Costa Mesa Sanitary District for Field Maintenance Services. The Public Services Director reviewed the Agenda Report dated September 8, 2005.

MOTION/Gave
Directions to Staff

On motion by Mayor Mansoor, seconded by Council Member Bever, and carried 5-0, the following was approved:

Staff was directed to discontinue negotiations on an agreement with the Costa Mesa Sanitary District (CMSD) to provide field crew services.

Staff was directed to assimilate into the current city maintenance workforce the five employees previously dedicated to providing sewer cleaning/ maintenance services to the CMSD, and eventually eliminate these five positions as attrition/promotions occur within the Maintenance Division.

Staff was directed to officially notify the District of this decision by letter from the City Manager's office, as well as thanking them for the excellent working relationship the city has enjoyed over the years with the District, and for the continuing effort to work cooperatively with the City for the benefit of the citizens/residents/businesses of Costa Mesa.

PUBLIC HEARING
Appeal of ZA-05-25,
Lawrence

The Deputy City Clerk announced that this was the time and place set for the public hearing to consider an appeal from Council Member Dixon of the Planning Commission's approval of Minor Conditional Use Permit ZA-05-25 for Robert Lawrence, authorized agent for Fisher/Shiffman Properties, to legalize four, 8-foot by 20-foot containers covering 7 required parking spaces, located at 345 Fischer Avenue in an MP (Industrial Park) zone. Environmental determination: exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's Office. A communication was received from Ila Johnson, Costa Mesa, supporting the appeal and indicating that the shipping containers do not belong in parking lots and churches. Council Member Dixon thought that the conditional use permit granted a special privilege to this property, and the City would be setting a precedent. The Senior Planner reviewed the Agenda Report dated September 8, 2005, and he and the City Attorney responded to questions from Council.

Robert Lawrence, Costa Mesa, addressed the issue of the

conditional use permit “running with the land”, stating that the Rock Harbor Church lease stipulates that the land will return to its original state when the tenant relocates. He indicated that there is an overabundance of parking on the church lot so the containers do not have an adverse impact.

Shawn Scott, Costa Mesa, responded to Council Member Dixon’s questions regarding potential impact by stating that parking is not an issue because there are approximately 35 church staff members and 80 parking places. He mentioned that the church had agreed to bring the lattice to the top of the fence and to install a gate. He agreed with Council Member Dixon that their leased facility is large, approximately 34,000 square feet, and added that the storage containers will be used to store items which are used for decoration and are changed on a quarterly basis. He noted that the available storage within the building is already being utilized. The Senior Planner confirmed for Council Member Dixon that the conditional use permit “goes with the land”. He replied to Mayor Pro Tem Monahan by stating that the neighbors have not complained about the containers.

The following Costa Mesa residents opposed the project: Martin Millard, stated that approval of this application would set a precedent which would allow similarly situated industrial uses to cheaply expand their space; Mike Berry, asked that Council determine the use of storage containers throughout the City; and Beth Refakes, doubted that the City could control what is stored in the containers, and encouraged Council to disallow them.

Judi Berry, Costa Mesa, asked why the conditional use permit went with the property. The City Attorney cited case law.

There being no other speakers, the Mayor closed the public hearing.

Mayor Mansoor felt that this is a “zoning consistency issue,” and was concerned that approval would open the door for other businesses. Council Member Dixon concurred with Mayor Mansoor, stating that approval would set a precedent. The City Attorney observed that each application is judged on its own merit, there is some argument for precedent and some for discretionary review, and each project must meet certain criteria and stands on its own.

MOTION/Adopted
Resolution 05-69

On motion by Council Member Dixon, seconded by Council Member Bever, and carried 4-1, Council Member Foley voting no, Resolution 05-69 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DENYING MINOR CONDITIONAL USE PERMIT ZA-05-25, reversing the Planning Commission’s decision, and granting the applicant 90 days in which to find an alternative storage location.

Mayor Pro Tem Monahan supported the motion, stating that the main issue is the loss of parking. Council Member Foley suggested adding a condition of approval to have the applicant agree to limit the duration of the conditional use permit to the basic term of their lease, and proposed that the approach should be on a regional basis.

RECESS

The Mayor declared a recess at 7:50 p.m., and reconvened the meeting at 8:00 p.m.
The Deputy City Clerk announced that this was the time and place

PUBLIC HEARING
PA-05-30, Bristol
Mini

set for the public hearing to consider an appeal from Lee Jamieson, Owner, Bristol Street Mini Storage, LLC, of the Planning Commission's denial of the six-month extension of time for Conditional Use Permit PA-05-30 for the County of Orange/Bristol Street Mini Storage, LLC, for the outdoor storage of recreation vehicles and a mini-storage facility (originally approved under PA-94-24 and PA-04-12) from September 1, 2005, to March 1, 2006, located at 1100 Bristol Street in a C1 (Local Business District) zone. Environmental determination: exempt. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. Communications were received from Ila Johnson, Costa Mesa, stating that the storage containers are unsightly, and disapproving of the location; and Lee Jamieson, the applicant, requesting a continuance.

Costa Mesa residents Mike Berry and Martin Millard opposed the extension. Patricia McGee spoke in support of the extension, stating that she is a customer of the facility and that it is a necessary and well-run business.

MOTION/Continued
to October 4, 2005

On motion by Mayor Pro Tem Monahan, seconded by Council Member Foley, and carried 4-1, Mayor Mansoor voting no, the public hearing was continued to the meeting of October 4, 2005.

PUBLIC HEARING
Traffic Impact Fee

The Deputy City Clerk announced that this was the time and place set for the public hearing to consider an annual review of Citywide Traffic Impact Fee Program: Resolution to approve the updated traffic impact fee study recommending a Citywide Traffic Impact Fee of \$181.00 per Average Daily trip (ADT); continue the incentive program for new developments by assessing traffic impact fees on an incremental basis for the first 100 trips; and approve the annual accounting of the Citywide Traffic Impact Fee Program. The Affidavits of Publishing and Mailing are on file in the City Clerk's office. The Associate Engineer reviewed the Agenda Report dated September 2, 2005, and responded to questions from Council.

There being no speakers, the Mayor closed the public hearing.

MOTION/Adopted
Resolution 05-70

On motion by Mayor Mansoor, seconded by Council Member Dixon, and carried 5-0, Resolution No. 05-70 was adopted: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, ESTABLISHING THE CITYWIDE TRAFFIC IMPACT FEE FOR NEW DEVELOPMENT IN THE CITY OF COSTA MESA AND THE RELATED ANNUAL REVIEW OF THE CITYWIDE TRAFFIC IMPACT FEE PROGRAM AND CAPITAL IMPROVEMENT PLAN FOR TRANSPORTATION IMPROVEMENTS.

PUBLIC HEARINGS
Trash Dumpsters/Bins
and Trash Enclosures

The Deputy City Clerk announced that this was the time and place set for the public hearing to consider an ordinance regarding trash dumpsters/bins and trash enclosures. Environmental determination: exempt. The Affidavit of Publication is on file in the City Clerk's office. The Principal Planner summarized the Agenda Report dated September 12, 2005. Council Member Dixon asked that language be added to the ordinance allowing the Zoning Administrator to waive parking requirements, and asked for more detailed information on parking space loss. She asked for the definition of hardship as used in the ordinance.

Mike Berry, Costa Mesa, suggested that the all containers and bins throughout the City be addressed in one ordinance. The

Development Services Director clarified that the only legal trash bins and dumpsters on private property those provided by trash haulers.

Beth Refakes, Costa Mesa, supported the ordinance and noted the lack of enforcement regarding trash infractions. She was concerned about the reduction in parking.

There being no other speakers, the Mayor closed the public hearing.

MOTION/Gave
Ordinance 05-12
First Reading

On motion by Mayor Pro Tem Monahan, seconded by Council Member Dixon, Ordinance 05-12 was given first reading as amended: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLE 20 OF THE COSTA MESA MUNICIPAL CODE REGARDING TRASH DUMPSTERS/ BINS AND TRASH ENCLOSURES, amending Section 20-7 (j) by deleting reference to the Development Services Director and revising the sentence to read, "The Zoning Administrator may waive this requirement, if he/she determines that the loss of onsite parking shall create a hardship for the site, subject to review pursuant to Chapter IX of Title 2." Second reading and adoption are scheduled for the meeting of October 4, 2005.

Council Member Foley supported the motion but thought that the action should be Citywide. Mayor Mansoor replied that the ordinance does cover the entire City but the initial focus will be on the west side.

PUBLIC HEARINGS
Canopies on Resi-
dential Properties

The Deputy City Clerk announced that this was the time and place set for the public hearing to consider an ordinance regarding canopies on residential properties. Environmental determination: exempt. The Affidavit of Publication is on file in the City Clerk's office. The Principal Planner reviewed the Agenda Report dated September 8, 2005.

Beth Refakes, Costa Mesa, noted that the ordinance did not mention that the canopy should be maintained in a good condition.

Phil Morello, Costa Mesa, observed that the problem with canopies and with storage units is that fencing cannot be constructed high enough to obstruct them from view. The Principal Planner and City Attorney responded to questions from Council.

There being no other speakers, the Mayor closed the public hearing.

MOTION/Gave
Ordinance 05-13
First Reading

On motion by Mayor Mansoor, seconded by Mayor Pro Tem Monahan, and carried 5-0, Ordinance 05-13 was given first reading: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLE 20 OF THE COSTA MESA MUNICIPAL CODE REGARDING CANOPIES ON RESIDENTIAL PROPERTIES, amending Section 20-11.5(b) to read, "...The canopy shall be maintained in good condition and shall be removed, cleaned, or replaced if torn, faded or dirty"; read by title only and waived further reading. Second reading and adoption are scheduled for the meeting of October 4, 2005.

The Deputy City Clerk presented from the meeting of September 6, 2005, annual contract for shopping cart retrieval services with

OLD BUSINESS
Contract with
Hernandez Cart
Services

Hernandez Cart Services, Inc., 1808 Lincoln Boulevard, Venice, in the amount of \$40,000.00. Communications were received from Eric and Sara Millard, Costa Mesa, reporting that there are discarded shopping carts regularly on the west side; and Ila Johnson, Costa Mesa, who believed that shopping carts are the store's responsibility.

Mayor Mansoor proposed entering into the contract on a month-to-month basis, directing staff to research how many carts were picked up in the last year, review the Stockton ordinance previously presented to Council, and to review a "zero tolerance" approach, allowing a three-month grace period where warnings are issued. Council Member Bever observed that several retailers voluntarily subscribe to a cart retrieval service which he did not believe was fair since there are 41 retailers. He asked the City Attorney's office to determine if other retailers could be subject to public nuisance enforcement, specifically Albertsons, El Metate, Stater Bros. (both locations), and Vons. Council Member Bever supported citing the persons removing the carts.

The City Attorney reported that they have conducted some investigation on this legislation, commenting that the League of California Cities has taken a stand to repeal restrictions placed on cities. Council Member Dixon supported having someone other than the taxpayers of Costa Mesa pay for picking up carts but had previously learned there is little support for pressuring the grocery industry to pick up their own carts. Council Member Foley requested information regarding the grocer's willingness to retrieve carts. Mayor Pro Tem Monahan was concerned about spending the City's money to pursue shutting down businesses because of shopping cart violations.

Phil Morello, Costa Mesa, indicated that the Chamber of Commerce had originally opposed having shopping carts retrieved by collection companies contracted by the City. He observed that the shopping cart issue causes extra work for Code Enforcement, and preferred that the business owners who cause the problem pay for the solution.

Judi Berry, Costa Mesa, questioned figures in the Agenda Report.

Beth Refakes, Costa Mesa, thought that the cart service was effective and less expensive than it would be for the City to perform the same service.

Mike Berry, Costa Mesa, observed that this program was not designed to be a solution but was initiated to gather data in order to analyze the problem. He commented that the City's hot line numbers were useless.

MOTION/Withdrawn

A motion was made by Mayor Mansoor, seconded by Council Member Bever, to approve the contract, directing the City Attorney to analyze for a report back to Council the Stockton ordinance and its effectiveness, determine the City's ability to adopt an ordinance which imposes a fine if the store fails to retain shopping carts on its premises, and review the previous items addressed by himself and Council Member Bever.

In response to Mr. Berry's previous comment, Council Member Bever encouraged installing one "hot line" number which would

cover shopping carts, graffiti, etc.

SUBSTITUTE
MOTION/Approved

A substitute motion was made by Mayor Pro Tem Monahan, seconded by Council Member Dixon, and carried 5-0, to approve the contract with Hernandez Cart Services, Inc., and authorize the City Manager to sign on behalf of the City.

After discussion, Mayor Mansoor withdrew the original motion, and clarified its intent.

MOTION/Gave
Direction to Staff

On motion by Mayor Mansoor, seconded by Mayor Pro Tem Monahan, and carried 5-0, the City Attorney was directed to analyze for a report back to Council the Stockton ordinance and its effectiveness, to research the current legislation regarding the permitting of a "Zero Tolerance" policy, and to bring back for review Alternative 1, "Zero Tolerance" policy, and to bring back for review Alternative 2, "Zero Tolerance" policy, as suggested in the June 2, 2003, Agenda Report relative to the Shopping Cart ordinance.

OLD BUSINESS
Senior Center Board
Appointments

The Deputy City Clerk presented from the meeting of September 6, 2005, Senior Center Board Appointments. The Recreation Manager summarized the Agenda Report dated August 24, 2005.

MOTION/Appointed
Gartner and Kinkade

A motion was made by Mayor Pro Tem Monahan, seconded by Council Member Foley, to appoint Bill Gartner and David Kinkade to the Senior Center Board.

SUBSTITUTE
MOTION

A substitute motion was made by Mayor Mansoor, seconded by Council Member Bever, to appoint David Kinkade and Dan Worthington. The substitute motion failed to carry 3-2, Mayor Pro Tem Monahan, Council Member Dixon, and Council Member Foley voting no.

The original motion carried 3-2, Mayor Mansoor, and Council Member Bever voting no.

CITY MANAGER
REPORTS

The City Manager reported that he is working on behalf of the Orange County Division of the League of California Cities, the Orange County Transit Authority, along with Mayor Pro Tem Monahan and Council Member Foley, regarding resubmission of Measure M for consideration on the November 6, 2005, ballot. He encouraged Council and members of the public who have input and/or suggestions to contact the City. He thanked Council Member Foley for volunteering to attend the Santa Ana Heights group meeting on October 5, 2005, to discuss their annexation to the City of Newport Beach.

ADJOURNMENT

At 9:50 p.m., Mayor Mansoor adjourned the meeting to the meeting of Tuesday, October 18, 2005.

,